

Executive Summary

R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs.

This rule: 1) establishes the procedures, standards and requirements for commercially harvesting brine shrimp and brine shrimp eggs.

There are no proposed revisions to this rule at this time, this review serves as the required 5-year review of the rule.

R657. Natural Resources, Wildlife Resources.

R657-52. Commercial Harvesting of Brine Shrimp and Brine Shrimp Eggs.

R657-52-1. Purpose and Authority.

(1) Under authority of Sections 23-14-3, 23-14-18, 23-14-19, Sections 23-15-7 through 23-15-9, and 23-19-1(2), this rule provides the procedures, standards, and requirements for commercially harvesting brine shrimp and brine shrimp eggs.

(2) The objective of this rule is to protect, manage, and conserve the brine shrimp resource based upon the best available data and information and adequately preserve the Great Salt Lake ecosystem while recognizing the economic value of allowing the harvest of brine shrimp and brine shrimp eggs and maintaining a sustainable brine shrimp population.

R657-52-2. Definitions.

(1) Terms used in this rule are defined in Section 23-13-2.

(2) In addition:

(a) "Alternate seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting brine shrimp and brine shrimp eggs in the absence of the primary seiner.

(b) "Certificate of registration marker" means a floating or mounted marker conforming to the specifications set forth in Subsection R657-52-16(2) and (3), which must be displayed at a harvest location before harvest activity commences.

(c) "Harvest" means to gather or collect brine shrimp or brine shrimp eggs and reduce it to possession.

(d) "Harvest location" means the location where the gathering or harvesting of brine shrimp or brine shrimp eggs takes place. A harvest location is a 300 yard radius from the location of the Certificate of Registration marker as required under Subsection R657-52-16(8).

(e) "Helper" means a person aiding a certificate of registration holder in the harvesting, transporting, or selling of brine shrimp or brine shrimp eggs, including any employee, agent, family member, or volunteer.

(f) "Helper card" means a card authorizing a person to act as a helper.

(g) "Primary seiner" means the person in charge of and responsible for supervising a crew of helpers harvesting brine shrimp and brine shrimp eggs.

(h) "Purchase" means to buy, acquire, or obtain from sale, exchange, barter, or

trade brine shrimp or brine shrimp eggs for pecuniary consideration or advantage.

(i) "Wildlife registration office" means the division office in Salt Lake responsible for processing applications and issuing certificates of registration.

R657-52-3. Certificate of Registration Required.

(1)(a) A person may not harvest, possess, or transport brine shrimp or brine shrimp eggs without first obtaining a certificate of registration and a helper card for each individual assisting that person.

(2)(a) The division may issue a certificate of registration authorizing a person to harvest brine shrimp and brine shrimp eggs.

(b) A separate certificate of registration and the corresponding certificate of registration marker is required for each harvest location.

(c) The original copy of the certificate of registration must be present at the harvest location while harvesting brine shrimp or brine shrimp eggs.

(3) A certificate of registration under this rule is not required:

(a) to harvest 200 pounds or less of brine shrimp or brine shrimp eggs, during a single calendar year, for culturing ornamental fish, provided the brine shrimp eggs are not sold, bartered, or traded;

(i) a certificate of registration is required, however, under Rule R657-3 for the activities described in Subsection (a);

(b) for the retail sale of brine shrimp or brine shrimp eggs imported into Utah, provided the product is clearly labeled as to its out-of-state origin;

(c) to process lawfully acquired brine shrimp or brine shrimp eggs;

(d) to sell brine shrimp or brine shrimp eggs, provided the brine shrimp or brine shrimp eggs were taken in accordance with the provisions of this rule by a person who has obtained a certificate of registration or as provided in rule R657-3; or

(e) to collect, transport or possess brine shrimp and brine shrimp eggs for personal use, provided:

(i) the brine shrimp and brine shrimp eggs are collected, transported and possessed together with water in a container no larger than one gallon;

(ii) no more than a one gallon container of brine shrimp and brine shrimp eggs, including water, is collected during any consecutive seven day period; and

(iii) the brine shrimp or brine shrimp eggs are not released live into the Great Salt Lake, Sevier River or any of their tributary waters.

(4) Certificates of registration are not transferable, except as provided in Section R657-52-7.

(5) Any certificate of registration issued to a business or any other commercial organization shall be void upon the termination of the business or organization or upon bankruptcy.

(6) Certificates of registration that may become available for issuance through revocation, expiration, nonrenewal, or surrender may either be retired by the division or reallocated to eligible persons and entities through random drawings conducted at the Division of Wildlife Resources, Salt Lake City office.

(7) All persons or entities applying for a certificate of registration to harvest brine shrimp and brine shrimp eggs made available for issuance through Subsection (6) shall

satisfy the following requirements:

(a) submit a certificate of registration application to the wildlife registration office consistent with the requirements set forth in R657-52-5; and

(b) submit a cashiers check to the division in the established fee amount for each certificate of registration applied for.

(8)(a) The issuance of a certificate of registration automatically incorporates within its terms the conditions and requirements of this rule specifically governing the activity for which the certificate of registration is issued.

(b) Any person accepting a certificate of registration under this rule acknowledges the necessity for close regulation and monitoring by the division.

(9) Any certificate of registration issued or renewed by the division under this rule to harvest brine shrimp or brine shrimp eggs is a privilege and not a right. The certificate of registration authorizes the holder to harvest brine shrimp or brine shrimp eggs subject to all present and future conditions, restrictions, and regulations imposed on such activities by the division, the Wildlife Board, the state of Utah, or the United States.

(10) A certificate of registration to harvest brine shrimp or brine shrimp eggs does not guarantee or otherwise legally entitle the holder to any of the following:

(a) a minimum harvest quota in any given season or seasons;

(b) a quota or percentage of the harvestable surplus as determined by the division;

(c) a particular harvesting or processing method;

(d) a particular harvest season duration, commencement date, or termination date; (e) access to any particular area or site on the Great Salt Lake or on other waters in the state, regardless of historical authorization or use;

(f) marina access on the Great Salt Lake or elsewhere in the state, regardless of historical authorization or use;

(g) an increase, stabilization, or reduction in the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs;

(h) an exclusive opportunity to harvest;

(i) a particular quantity or quality of brine shrimp or brine shrimp eggs;

(j) a particular water condition or salinity level conducive to brine shrimp production, brine shrimp egg production, or harvest success;

(k) any particular level of protection for brine shrimp or brine shrimp eggs from disease, pesticides, or predators; or

(l) any other right or management philosophy beneficial to harvesting or production of brine shrimp and brine shrimp eggs.

(11) The procedures and processes outlined in this rule regulating the harvest of brine shrimp and brine shrimp eggs are all subject to change as the division and the Wildlife Board gather greater information and data on the impact current harvest regulations have on the sustainability of brine shrimp populations, the Great Salt Lake ecosystem, and the economic viability of the industry.

R657-52-4. Certificate of Registration Availability.

(1) The Wildlife Board, after considering the best available biological data and

other information received from the division and the public, has determined that:

(a) a limitation on the number of certificates of registration issued by the division to harvest brine shrimp and brine shrimp eggs is currently necessary to protect the brine shrimp resource and the Great Salt Lake ecosystem;

(b) additional research and scientific data is necessary to adequately understand the dynamics of the brine shrimp populations, the Great Salt Lake ecosystem, and the impact harvesting has on the sustainability of the resource;

(c) given the current number of certificates of registration, the need for additional scientific data, and the increasing efficiency in the industry's ability to harvest large quantities of brine shrimp and brine shrimp eggs in short periods, the issuance of additional certificates at this point in time may compromise the division's ability to effectively regulate the harvest to avoid jeopardizing resource sustainability; and

(d) given these factors and the harvest restrictions adopted in this rule, a total of 79 certificates of registration may be issued.

R657-52-5. Application for Certificate of Registration.

(1) Applications for certificates of registration to harvest brine shrimp and brine shrimp eggs are available at division offices and must be submitted to the division between May 1 through May 31. Applications may be submitted by mail if postmarked no later than midnight on the last day of the application period.

(2)(a) If an application for a certificate of registration is made in the name of a commercial organization, the applicant must specify the person responsible for that entity.

(b) All commercial organization applicants shall provide with the application a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.

(3)(a) Completed applications must be submitted to the wildlife registration office.

(b) The division may return any application that is incomplete or completed incorrectly.

(4) The application review process may require up to 45 days.

(5) The division may deny issuing a certificate of registration to any applicant for any of the following reasons:

(a) the applicant has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;

(b) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(c) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife.

(6) The division may limit the number of certificates of registration issued or deny any application in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application is approved, the division shall issue the applicant a

certificate of registration that specifies, among other things:

- (a) the name, address and phone number of the applicant;
- (b) the name, address and phone number of the responsible person;
- (c) the water and locations where brine shrimp and brine shrimp eggs may be harvested;
- (d) the certificate of registration's expiration date; and
- (e) any restriction imposed on the applicant in addition to the provisions of this rule.

(8) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Sections R657-52-12 and R657-52-13.

R657-52-6. Certificate of Registration Renewal.

(1) Each certificate of registration to harvest brine shrimp and brine shrimp eggs issued under this rule may be renewed by the division on an annual basis consistent with the provisions in this section.

(2) Persons or business entities issued certificates of registration by the division in the harvest year immediately preceding the harvest year for which renewal is sought will have a preference for the same number of certificates of registration, provided the applicant satisfies the renewal criteria for each certificate of registration.

(3) The annual expiration date of a certificate of registration shall be shown on the certificate of registration. A certificate of registration that is not renewed prior to the expiration date shown on the certificate of registration automatically expires.

(a) A certificate of registration automatically expires prior to the expiration date shown on the certificate of registration upon the dissolution of a holder that is a partnership, corporation, or other business entity.

(b) Upon the death of a certificate of registration holder that is a natural person, the estate may attempt to sell the harvest operation and petition the division, under Section R657-52-7, to transfer the certificate of registration to the respective buyer.

(c)(i) Failure to annually renew a certificate of registration by satisfying all the renewal criteria outlined in this rule prior to the expiration date shown on the certificate of registration shall automatically deprive the prospective holder of a renewal preference in succeeding years.

(ii) Preference forfeiture results whether unsuccessful renewal is the consequence of automatic expiration, applicant neglect, or division denial.

(iii) Failure to renew in years where the harvest of brine shrimp or brine shrimp eggs is closed for regulatory or management purposes will result in preference forfeiture.

(d) Expiration of a certificate of registration is not an adjudicative proceeding under Title 63, Chapter 46b of the Utah Administrative Procedures Act.

(4) Renewal applications for certificates of registration to harvest brine shrimp and brine shrimp eggs are available at the division's wildlife registration office in Salt Lake City.

(a) Completed renewal applications shall be submitted to the wildlife registration office between May 1 and May 31 of each year. Applications are considered

"submitted" for purposes of this rule when hand delivered to the wildlife registration office on or before the application deadline, or when mailed to the wildlife registration office and postmarked no later than midnight on the last day of the application period.

(b) Where a certificate of registration renewal application is submitted in the name of a commercial organization, the applicant must specify the person responsible for that entity.

(c) The commercial organization applicant must provide, on or with the renewal application, a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.

(d) The division may return any application that is incomplete or completed incorrectly.

(e) Applications for renewal that are filed within the prescribed time period set in this rule but returned as incomplete or completed incorrectly may be granted where the errors are corrected and the application resubmitted to the wildlife registration office within 30 days from the date the initial application was rejected.

(f) The application review process may require up to 45 days.

(5) The criteria for certificate of registration renewal are as follows:

(a) the applicant was issued a certificate of registration to harvest brine shrimp and brine shrimp eggs in the immediate harvest season preceding the application for renewal;

(b) the applicant has accurately and completely filled out the division's renewal application and submitted it to the division within the time period prescribed in this rule;

(c) the applicant has submitted with the renewal application a cashiers check for the established fee amount for each certificate of registration; and

(d) the applicant satisfies all other requirements prerequisite to receiving an initial certificate of registration to harvest brine shrimp or brine shrimp eggs as found in R657-52-5.

(6) The division may refuse to renew a certificate of registration for any of the following reasons:

(a) the applicant has failed to submit any report required by the division in writing, or any report required by this rule or the Wildlife Board;

(b) the applicant has been found guilty, pleaded guilty or pleaded no contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife;

(c) the applicant has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board Order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(d) where the division determines that renewal may significantly damage or is not in the interest of wildlife, wildlife habitat, serving the public, or public safety.

(7) If an application for renewal is approved, the Division shall issue the applicant a new certificate of registration that may specify:

(a) the species and amounts of protected aquatic wildlife that may be harvested or sold;

(b) the water and locations where protected aquatic wildlife may be harvested;

(c) the equipment that may be used;

(d) the hours during which protected aquatic wildlife may be harvested; and
(e) any restriction imposed on the applicant in addition to the provisions of this rule.

(8) Any applicant who has been refused renewal of a certificate of registration may submit a request for agency action to the Wildlife Board, in care of the Division of Wildlife Resources, within 30 days following notification of the refusal to renew. The format and content of the request for agency action and any subsequent proceedings initiated thereunder shall comply with Rule R657-2.

(9) Certificates of registration for harvesting brine shrimp and brine shrimp eggs are valid only during the harvest season as provided in Subsections R657-52-12 and R657-52-13.

R657-52-7. Certificate of Registration Transfers

(1) Pursuant to Section 23-19-1(2), a person may not lend, transfer, sell, give or assign a certificate of registration to harvest brine shrimp and brine shrimp eggs belonging to the person or the rights granted thereby, except as authorized hereafter.

(2) "Business entity" for purposes of this section means any person, proprietorship, partnership, corporation, or other commercial organization that has been issued a certificate of registration by the division to harvest brine shrimp and brine shrimp eggs.

(3)(a) The division may authorize, consistent with the requirements of this section, the transfer of a valid certificate of registration to harvest brine shrimp and brine shrimp eggs from the lawful holder to an other person or entity in the following instances:

(i) where any transaction or occurrence will cause the name of the business entity recorded as the certificate of registration holder to change from that specifically identified on the certificate of registration;

(ii) where any transaction or occurrence will cause the business entity recorded as the certificate of registration holder to permanently reorganize, dissolve, lapse, or otherwise cease to exist as a legal business entity under the laws of the State of Utah or the jurisdiction where the business entity was organized; or

(iii) where any transaction or occurrence effectively transfers a certificate of registration to harvest brine shrimp and brine shrimp eggs in violation of Section 23-19-1(2).

(b) written approval from the division for any certificate of registration transfer permitted under this rule shall be obtained prior to any transfer of the certificate of registration or the rights granted thereunder.

(c) Transferring or selling an ownership interest in a business entity holding a certificate of registration to harvest brine shrimp and brine shrimp eggs does not require division approval provided the transfer of ownership does not cause the business entity to temporarily or permanently change its name, reorganize, dissolve, lapse, or otherwise cease to exist as a legally recognized business entity under the laws of the State of Utah.

(4) Obtaining division approval to transfer a certificate of registration to harvest brine shrimp and brine shrimp eggs shall be initiated by application to the division, as

provided in Subsections (a) through (e).

(a) Complete the application prescribed by the division and submit it to the division's wildlife registration office.

(b) Applications may be submitted any time during the year.

(c) Annual applications and fees for certificates of registration renewal shall be submitted between May 1 and May 31, regardless whether a transfer application is contemplated or pending.

(d) If an application to transfer a certificate of registration identifies a business entity as the transferee, the transferee must designate a person responsible for that entity.

(i) The transferee shall provide on or with the application a written statement designating the responsible person as its legal agent in all matters before the division relating to brine shrimp and brine shrimp egg harvesting.

(e) The division may return any application that is incomplete or completed incorrectly.

(5) The division shall respond to the application to transfer a certificate of registration within 20 days of receipt in one of the following forms:

(a) a letter approving the application;

(b) a letter denying the application and identifying the reasons for denial;

(c) a letter identifying deficiencies in the application and requesting additional information from the applicant; or

(d) a letter notifying the applicant that the division requires additional time to process and consider the application with an explanation of the extenuating circumstances necessitating the extension.

(6) The division shall deny an application to transfer a certificate of registration where any of the following exists:

(a) the proposed transferee fails to satisfy all the requirements necessary to obtain an original certificate of registration; or

(b) the applicant transferor fails to demonstrate that the certificate of registration will be transferred in connection with the sale or transfer of the entire brine shrimp harvest operation or the harvesting equipment ordinarily required to effectively utilize a certificate of registration.

(i) Business entities holding no harvesting equipment may be approved for a certificate of registration transfer only where the entire business entity and brine shrimp harvest operation is transferred along with all certificates of registration held by the business entity.

(ii) Business entities changing the official name maintained on division records as the certificate of registration holder shall simply establish that the entity's ownership and business structure will not materially differ under the new business name.

(7) The division may deny authorizing a certificate of registration transfer to any proposed transferee for any of the following reasons:

(a) the applicant transferee has previously been issued a certificate of registration and has failed to submit any report required by this rule, the division, or the Wildlife Board;

(b) the applicant transferee has been found guilty, pleaded guilty or pleaded no

contest in an administrative proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife; or

(c) the applicant transferee has been found guilty, pleaded guilty or pleaded no contest in a criminal proceeding to violating any rule, statute, proclamation, or Wildlife Board order relating to the harvest, possession, or sale of protected aquatic wildlife.

(8)(a) If a transfer application is approved, the division shall accept the surrender of the transferor's certificate of registration and reissue it to the proposed transferee within 10 business days of the surrender consistent with the requirements prescribed in this rule.

(b) The proposed transferee may not begin harvesting brine shrimp or brine shrimp eggs until it has received a certificate of registration from the division issued in its name, and only then in conformance with all applicable laws, rules, and orders of the Wildlife Board and division.

(c) In receiving a certificate of registration transferred under this section, the transferee assumes no additional privileges or opportunities with respect to harvesting brine shrimp and brine shrimp eggs than those formerly possessed by the transferor.

R657-52-8. Primary and Alternate Seiners.

(1)(a) A primary seiner or an alternate seiner must be present at each harvest location and directly supervise the harvest activity.

(b) A primary or alternate seiner does not have to be present while transporting brine shrimp or brine shrimp eggs from the harvest location.

(c) A primary seiner and an alternate seiner card are issued with the certificate of registration and are transferable within the entity holding the certificate of registration.

(d) The primary or alternate seiner must have a primary or alternate seiner card in possession at the harvest location.

R657-52-9. Use of Helpers.

(1)(a) Except as hereafter provided in Subsection (2), any person aiding the certificate of registration holder, a primary seiner, or alternate seiner in harvesting brine shrimp and brine shrimp eggs shall be in possession of a helper card.

(b) Three individual helper cards are issued with the certificate of registration.

(c) A helper card shall be deemed to be in possession if it is on the person or on the boat from which the person is working.

(2)(a) A helper card is not required of any person engaged only in the retail sale or transportation of brine shrimp or brine shrimp eggs.

(b) A person directing harvest operations from a plane for a certificate of registration holder does not have to have a helper card.

(c) The driver of a truck transporting brine shrimp or brine shrimp eggs from the lake to a storage or processing plant does not have to have a helper card. Any crew member loading brine shrimp and brine shrimp eggs into a truck must have a helper card in possession.

(3) Helper cards are issued in the name of the certificate of registration holder and are transferable among individuals assisting the certificate of registration holder.

(4)(a) A helper may assist in the harvest of brine shrimp and brine shrimp eggs

only while working under the direct supervision of a primary or alternate seiner.

(b) For purposes of this rule, "direct supervision" means to be physically present, either on a boat with the helper or within close proximity so as to be able to provide direct instructions to the helper.

(5) Twelve additional helper cards for each certificate of registration may be obtained from the wildlife registration office at any time during the year.

R657-52-10. Records - Report of Activities.

(1) Any person or business entity issued a certificate of registration to harvest brine shrimp and brine shrimp eggs shall keep accurate records of the weight harvested and to whom the product is sold.

(2) The records required under Subsection (1) shall be retained for at least five years and must be available for inspection upon division request.

(3) Certificate of registration holders shall submit the following reports to the Great Salt Lake Ecosystem Project office for each certificate of registration:

(a) A weekly harvest report documenting the total amount of brine shrimp and brine shrimp eggs, by raw weight, harvested each day of the reporting week. The reports must be prepared by a person working for the reporting company, and the reports must be received or postmarked by Monday of each week.

(b) A daily harvest report documenting the total amount of brine shrimp and brine shrimp eggs, by raw weight, harvested each day. The report shall be filed no later than 12 hours after the end of the previous calendar day. The report may be filed utilizing a voice mail system linked to a dedicated phone number provided or the report may be filed by fax to a dedicated phone number. The report must be prepared or given by a person working for the reporting company.

(c) A weekly report of all landing receipts prepared pursuant to Section R657-52-14 during the reporting week. The report must be prepared or given by a person working for the reporting company, and must be received by the division or postmarked by Monday of each week.

(4) Report forms may be obtained from the division.

R657-52-11. Species of Protected Aquatic Wildlife That May Be Harvested.

(1) A certificate of registration issued under this rule may authorize the holder to commercially harvest only brine shrimp and brine shrimp eggs.

(2) Any species of protected aquatic wildlife caught other than brine shrimp and brine shrimp eggs must be immediately returned alive and unharmed to the water from which it was harvested.

R657-52-12. Harvest Season and Hours.

(1)(a) Except as provided in Subsections R657-52-13(4) and (5), a certificate of registration is valid for harvesting brine shrimp and brine shrimp eggs only during the harvest season beginning October 1 and ending January 31. If October 1 falls on a Sunday, the harvest season shall begin on the following Monday.

(b) In the interest of the wildlife resources of the Great Salt Lake, the harvest

season may be delayed up to 10 days provided the harvesting companies are notified seven days in advance of the delay.

(c) After the season has opened, harvesting may be suspended two times during the season, for up to seven days each time, in the interest of the wildlife resources of the Great Salt Lake, provided the harvesting companies are notified at least 24 hours in advance of the suspension date.

(2) Brine shrimp and brine shrimp eggs may be harvested 24 hours a day during any open harvest season by those possessing a valid certificate of registration for such activities.

(3) When the harvest season is suspended or closed, all harvest activity shall cease at official sunset on the designated date of closure.

R657-52-13. Areas of Harvest and Special Season Dates.

(1) The division may authorize the harvest of brine shrimp and brine shrimp eggs from:

(a) the Great Salt Lake and surrounding areas, including ponds operated in a normal manner for mineral extraction; and

(b) the Sevier River.

(2) The area east of the north-south line from the tip of Promontory Point south along the east shore of Fremont and Antelope Islands and along the dike extending from the south end of Antelope Island to the south shore of the Great Salt Lake is closed to the commercial harvesting of brine shrimp and brine shrimp eggs.

(3) Except as provided in Subsections (4) and (5), brine shrimp and brine shrimp eggs may be harvested only during the harvest season as described in Section R657-52-12.

(4)(a) Any person who has a valid certificate of registration may cumulatively collect up to 25 pounds of brine shrimp eggs between March 1 and the official opening date of the brine shrimp harvest season, as declared by rule or the division, for purposes of conducting research.

(b) For the purpose of conducting research, a person may not collect more than one pound of brine shrimp eggs during a single day regardless of the number of certificates of registration issued to that person.

(c) Brine shrimp and brine shrimp eggs collected for research under the authority of this section may not be sold, traded, or bartered.

(5)(a) Any person possessing a valid certificate of registration to harvest brine shrimp and brine shrimp eggs may do so from mineral extraction ponds located along the shores of the Great Salt Lake any time during the year.

(b) A pond may not be built or manipulated for the purpose of culturing or harvesting brine shrimp or brine shrimp eggs.

(c) Brine shrimp or brine shrimp eggs may not be introduced into the Great Salt Lake or any pond. Brine shrimp and brine shrimp eggs must enter into the pond during normal mineral extraction processes.

(6) All brine shrimp and brine shrimp eggs which have been harvested and placed in containers shall be transported from the lake or lakeshore not later than 21 days after the close of the harvest season. No brine shrimp or brine shrimp eggs may

be removed from the surface of the beach or water and placed in a container after the season is closed. Containers filled prior to the close of the harvest season with brine shrimp or brine shrimp eggs may be transported from the lake or lakeshore after the close of the harvest season, provided transportation occurs no later than 21 days following the closure.

R657-52-14. Transportation.

(1) When brine shrimp and brine shrimp eggs are transported away from the lakeshore to a processing plant, a landing receipt form must be prepared and be in possession of the transport driver before leaving the loading site.

(a) The landing receipt shall include:

- (i) the harvesters' certificate of registration numbers;
- (ii) the certificate of registration holder's name;
- (iii) the harvest dates;
- (iv) the harvest areas;
- (v) the landing dates;
- (vi) the container numbers and weights as determined by certified scales for lake harvested brine shrimp and brine shrimp eggs;
- (vii) the container numbers and weight estimates for shore harvested brine shrimp and brine shrimp eggs; and
- (viii) the names of the individuals who landed and weighed the product.

(2) The driver of a truck transporting brine shrimp product away from the lakeshore is not required to possess a helper card while engaged in that activity.

(3) Any person loading brine shrimp product into a truck to transport from the lakeshore shall possess a helper card.

R657-52-15. Identification of Equipment.

(1)(a) Any boat used for harvesting operations must be identifiable from the air, water and land with either the company name, company initials or certificate of registration number. A camp or base of operations located on or near the shoreline must be marked so it is visible from the air and land with either the company name, company initials, or certificate of registration number. Boat markings denoting the company name, company initials or certificate of registration number, must be visible from a distance of 500 yards when on the lake.

(b) The letters or numbers shall be visible at all times, written clearly and shall meet the following requirements:

- (i) letters or numbers on the top of a boat shall be at least 36 inches in height;
 - (ii) letters or numbers used on the sides of a boat shall be at least 24 inches in height, except that boats with inflatable hulls may use letters and numbers that are 12 inches in height;
 - (iii) letters or numbers used on a camp or base of operations sign shall be at least 24 inches in height; and
 - (iv) all letters and numbers used for identification purposes shall be of reflective white tape with a solid black background.
- (c) Identification may be done with a magnetic sign placed on top of and the

sides of the vehicle or boat.

(d) Each continuous segment of boom that may be coupled together shall be marked to denote the company's name, initials, or certificate of registration number. The markings shall consist of letters or numbers at least three inches in height.

(e) All containers filled or partially filled with brine shrimp or brine shrimp eggs and left unattended on the shore or in a vehicle parked on the shore shall be individually marked with either the company name, company initials or certificate of registration number under which the product was harvested. Each container shall be marked as follows:

(i) the company name, company initials or the certificate of registration number shall be permanently and legibly marked at a visible location on the exterior surface of the container; or

(ii) the company name, company initials or the certificate of registration number shall be permanently and legibly marked on a durable, waterproof tag securely and visibly attached to the exterior surface of the container.

(f) "Shore" for purposes of this section, shall include all lands within one mile of the body of water where the product was harvested. "Shore" does not include permanent structures affixed to the land and operated for purposes of storing or processing brine shrimp and brine shrimp eggs, provided the name of the structure's current owner or tenant is visibly marked on the exterior of the structure.

R657-52-16. Certificate of Registration Markers.

(1)(a) One certificate of registration marker corresponding to each certificate of registration shall be displayed at each harvest location as follows:

(i) on the boat with the certificate of registration on board;

(ii) on the harvest boat or attached to the boom;

(iii) in the water at the harvest location; or

(iv) on the shore while harvesting brine shrimp or brine shrimp eggs from shore.

(b) No more than one certificate of registration marker shall be displayed at each harvest location.

(c) An original certificate of registration shall be present at the harvest location where the corresponding certificate of registration marker is displayed.

(2) A certificate of registration marker shall consist of a piece of equipment, furnished by the harvesters, constructed in accordance with the following specifications:

(a) A six foot long piece of tubing with a weight at one end.

(b) This piece of tubing shall have a fluorescent orange ball that is a minimum of eighteen inches in diameter, mounted in the approximate center of the length of tubing. The fluorescent orange ball shall have the certificate of registration number, corresponding to the certificate of registration decal attached to the marker pursuant Subsection R657-52-16(2)(c), marked in two places with indelible black paint. The painted certificate of registration numbers shall be a minimum of twelve inches in height.

(c) Mounted above the orange ball towards the un-weighted end of the tubing shall be a decal issued by the division which denotes the certificate of registration in use and corresponding to the certificate of registration marker device.

(d) Mounted on the tubing between the orange ball and the un-weighted end of

the tubing, shall be an aluminum radar reflector that is a minimum of fifteen inches square.

(e) Mounted above the radar reflector shall be a three-inch wide band of silver reflective tape.

(f) Mounted on the un-weighted end of this tubing shall be an amber light that at night is visible for up to one-half mile and flashes 30 times per minute, minimum.

(3) The certificate of registration marker must be displayed in a manner that is:

(a) visible in all directions at a distance of 500 yards; or

(b) displayed above the superstructure of any vessel that a certificate of registration is being used from.

(4) The amber light on a displayed marker device must be operating at all times between sunset and sunrise.

(5) A brine shrimp harvester shall not display an amber light at night, or an orange ball or other device which simulates the certificate of registration marker device, without having the corresponding, original certificate of registration at the harvest location.

(6) Brine shrimp or brine shrimp eggs may not be harvested in any manner, nor may a harvest location be claimed unless and until an original copy of the certificate of registration is at the harvest location and the corresponding certificate of registration marker is properly displayed as required in this section.

(7) The certificate of registration and corresponding certificate of registration marker shall not be transported to the harvest location by aircraft.

(a) "Aircraft" for purposes of this section, means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(8) A person may not harvest any brine shrimp or brine shrimp eggs within a 300 yard radius of a certificate of registration marker displayed at a harvest location without permission from the company that first began harvesting in that location.

R657-52-17. Use of Booms.

(1)(a) A primary seiner, alternate seiner, or helper must remain within one mile of any boom attached to the shore, whether open or closed, 24 hours a day so that an officer may easily locate the person tending the boom.

(b) A boom may be left unattended in the open water during the legal harvest season if:

(i) the boom is properly identified as provided in Subsection R657-52-15(1)(d);

(ii) the boom is closed;

(iii) the boom is marked with a certificate of registration marker as described in Subsections R657-52-16(2) and (3); and

(iv) the certificate of registration marker is lighted as described in Subsections R657-52-16(2)(f) and (4).

(2) On a causeway or dike where camping is not allowed, a primary seiner, alternate seiner, or helper must be stationed at the closest possible camping site, not more than 10 miles away, and that location must be clearly identified on a tag securely attached to the shore end of the boom.

(3)(a) A person may not harvest any brine shrimp or brine shrimp eggs within

300 yards of any certificate of registration marker displayed at a harvest location as provided in Subsection R657-52-16(8) without permission from the company that first began harvesting in that location.

(b) The certificate of registration marker must be deployed as provided in Section R657-52-16 and accompanied by an individual at the harvest location to receive the 300 yard encroachment protection.

(4) Brine shrimp and brine shrimp eggs may be removed from another person's boom only with written permission from the person who owns the boom.

(5) A person may not deploy more than one continuous length of boom for each certificate of registration.

R657-52-18. Use of Equipment.

(1) A person may not intentionally drive a boat through or create a wake through a streak of brine shrimp eggs that another person is harvesting.

(2)(a) A person or business entity possessing a valid certificate of registration may test the equipment to be used in harvesting brine shrimp from March 1 through the official opening date of the brine shrimp harvest season, as declared by rule or the division.

(b) At least 48 hours before testing the equipment, the person must notify the division's Northern Regional Office.

(c) Any brine shrimp or brine shrimp eggs collected while testing the equipment must be immediately returned to the water, if collected from the water, or returned to the beach, if collected from the beach, within 1/4 mile of the location in which they were collected.

(3) Brine shrimp and brine shrimp eggs may not be taken to a storage facility, test site located greater than 1/4 mile from the location in which they were collected, or to shore, except as provided in Section R657-52-13(4).

R657-52-19. Violations.

(1) The penalty for any violation of this rule is a class C misdemeanor as provided in Section 23-13-11(2).

(2) Any violation of, or failure to comply with the provisions of this rule, any requirement contained in a certificate of registration issued pursuant to this rule, any Wildlife Board Order, or any statute related to the harvesting, possession or transfer of brine shrimp or brine shrimp eggs may be grounds for revocation, suspension or denial of future certificates of registration as determined by a division hearing officer.

KEY: brine shrimp, commercialization

Notice of Enactment or Last Substantive Amendment: December 12, 2006

Notice of Continuation: not applicable

Authorizing, and Implemented or Interpreted Law: 23-14-3; 23-14-18; 23-14-19; 23-15-7; 23-15-8; 23-15-9; 23-19-1(2)